IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 31460 of 2004(T)

PETITIONER:

PHILIP, S/O.PAVIYAN, AGED 52, DOING BUSINESS, PAVOITHARA HOUSE, PONNARIMANGALAM DESOM, ERNAKULAM DISTRICT.

BY ADV. SRI.N.J.JOHNSON

RESPONDENTS:

1.PURUSHOTHAMAN @ PURUSHAN, S/O.AYYAPPANIUTTY, MEULEPPARAMBIL, EROOR DESOM, NADAMA VILLAGE, KANAYANNOOR TALUK, ERNAKULAM DISTRICT.

2.THE DIRECTOR, FORENSIC SCIENCE LABORATORY, THIRUVANANTHAPURAM.

R1 BY ADV. SRI.JOHNSON ABRAHAM
SRI.NELSON ABRAHAM
R2 BY GOVT. PLEADER MR.K.J.MOHAMMED ANSAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 31460/04)

PETITIONER'S EXTS.:

EXT.P1: THE TRUE COPY OF THE AGREEMENT DT. 7.6.1996.

EXT.P2: THE TRUE COPY OF THE I.A.2806/97 DT. 24.1.1997.

EXT.P3: THE TRUE COPY OF THE LETTER DT. 15.7.1998 OF THE II ADDITIONAL SUB COURT, ERNAKULAM.

PIUS C. KURIAKOSE,J.

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W.P.(C)No.31460 of 2004

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Dated: 23rd May, 2007

JUDGMENT

This Writ Petition has been filed by the plaintiff in O.S.No.47/97 on the files of the Sub Court, Ernakulam seeking a writ of mandamus directing the learned Subordinate Judge to dispose of the suit within a time-frame and for a further writ of mandamus directing the 2nd respondent, the Director, Forensic Science Laboratory, Trivandrum to give the expert's report regarding a document which had been forwarded to him by the court for forensic scrutiny immediately. While admitting the Writ Petition this court directed the Government Pleader to seek instructions from the 2nd respondent and file a detailed statement as to why the document in question which was allegedly forwarded as early as on 24.1.1997 to the 2nd respondent for examination had not been examined till then and an opinion not rendered. The Government Pleader on getting instructions from the 2nd respondent has filed a statement on 7.12.2004 reiterating as follows:

> "2.It is submitted that as per the instruction received on 6.11.2004 from the office of the Director of Forensic Science Laboratory, Thiruvananthapuram, it is

informed that the documents involved in O.S.47/97 of II Additional Sub Court, Ernakulam were received the office of the second respondent only on 20.9.2002 and not taken up for examination so far due to the pressure of work relating to a large number of cases received prior to this case. It is also reported that however in view of the order from the Honourable High Court of Kerala this case will be examined on top priority basis and report of examination will be send on or before 20.11.2004.

3. It is also stated that the case is not pending examination in the Forensic Science Laboratory for 7 years as alleged by the petitioner. The cases received in the Forensic Science Laboratory are normally examined in the chronological order of receipt only except in cases directed by the Honourable High Court or by the Subordinate Courts to examine on priority/top priority basis. It is also submitted that there is only one expert working in this discipline."

It is clear from the statement filed by the Government Pleader that

the version of the petitioner that the document had been forwarded to the 2nd respondent seven years ago is a highly exaggerated one. However since I find that the suit is of the year 1997 it is necessary that the same is disposed of at the earliest. Under these circumstances, the Writ Petition will stand disposed of issuing the following directions:

If the 2nd respondent has not so far forwarded his report on the document forwarded by the Sub Court, Ernakulam, he will complete the examination of the document and forward the report at the earliest and at any rate within six weeks of receiving a copy of this judgment. The learned Subordinate Judge on receiving the report from the 2nd respondent will special list the suit for trial (if the suit is otherwise ripe for trial) at the earliest and dispose of the same in accordance with law.

srd **PIUS C.KURIAKOSE, JUDGE**